

Appl. No. 09/913,868
Atty. Docket No. 7427M
Amdt. dated 2/3/2004
Reply to Office Action of November 13, 2003
Customer No. 27752

REMARKS

Claims 1, 3-5, 7, 9-18, and 21 are pending in the present application. No additional claims fee is believed to be due.

Claims 2, 6, 8, 19 and 20 are canceled without prejudice.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC 112, Second Paragraph

Applicants thank the Examiner for the withdrawal of the rejection of Claims 18 and 19 under 35 U.S.C. §112, second paragraph.

Rejection Under 35 USC 102 Over WO 98/12296

Applicants thank the Examiner for the withdrawal of the rejection of Claims 1, 2, and 11 under 35 U.S.C. §102(a).

Rejection Under 35 USC 103(a) Over WO 98/12296

Applicants thank the Examiner for the withdrawal of the rejection of Claims 12-16, 18, and 19 under 35 U.S.C. §103(a).

Rejection Under 35 USC 103(a) Over WO 98/12296 in view of WO 99/07813

and WO 99/07813 in view of WO 98/12296

Claims 1-11, 13-16, 18 and 19 been rejected under 35 USC 103(a) as being unpatentable over WO 98/12296 in view of WO 99/07813.

Applicants have amended Claims 1 and 18 to more distinctly claim the homo-condensates and co-condensates being of basic amino acids selected from the group consisting of lysine, ornithine, arginine, and tryptophan. Applicants submit that WO 98/12296 does not teach or suggest a fabric enhancement composition comprising a polymeric material of the claimed invention of the present application. Applicants further submit that WO 98/12296 in view of WO 99/07813 does not teach or suggest the claimed invention of the present invention.

The Office Action states that polymers such as PEI 1800 E1 is encompassed by the broad recitation of "polymeric material" of Claim 1 of the present application. Applicants submit that

Page 8 of 84

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PEI 1800 E1, defined in '296 as ethoxylated polyethylene imine (MW 1800 at 50% active); page 39, lines 21-22 of '296; is an amino functional polymer, distinguished from the claimed polymeric material of the present invention, which is an amino acid functional polymer. It is known that amino acids comprise carboxylic acid functionalities. Amino polymers do not contain any carboxylic acid functionalities. Therefore, Applicants submit that '296 does not anticipate the material limitations of the claimed invention of the present application.

Applicants have submitted declaration under 37 CFR §1.131 signed by the inventors of the present application stating that prior to February 18, 1999, the inventors completed the invention as described and claimed in the subject application in this country, a NAFTA country, or a WTO country, as evidenced by Exhibits A and B, laboratory notebook pages demonstrating testing of the claimed invention before February 18, 1999.

Rejection Under 35 U.S.C §103(a) Over WO 98/12296 in view of WO 99/07813 and
further in view of US 5,629,278 (Baeck et al)

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over WO 98/12296 in view of WO 99/07813 as applied to claims 1, 2, 11-16, 18 and 19 (discussed above), and further in view of Baeck et al..

Applicants have amended Claims 1 and 18 to more distinctly claim the homo-condensates and co-condensates being of basic amino acids selected from the group consisting of lysine, ornithine, arginine, and tryptophan. Applicants submit that WO 98/12296 does not teach or suggest a fabric enhancement composition comprising a polymeric material of the claimed invention of the present application. Applicants further submit that WO 98/12296 in view of Baeck et al. does not teach or suggest the claimed invention of the present invention. The Office Action states that polymers such as PEI 1800 E1 is encompassed by the broad recitation of "polymeric material" of Claim 1 of the present application. Applicants submit that PEI 1800 E1, defined in '296 as ethoxylated polyethylene imine (MW 1800 at 50% active); page 39, lines 21-22 of '296; is an amino functional polymer, distinguished from the claimed polymeric material of the present invention, which is an amino acid functional polymer. It is known that amino acids comprise carboxylic acid functionalities. Amino polymers do not contain any carboxylic acid functionalities. Therefore, Applicants submit that '296 does not anticipate the material limitations of the claimed invention of the present application.

Double Patenting

Page 9 of 11

Appl. No. 09/913,868
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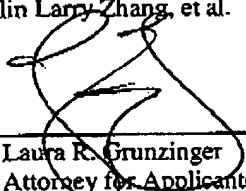
Applicants thank the Examiner for the withdraw of the rejection of Claims 1-19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 of US 6,531,438 or claims 1-19 of US 6,525,013.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §103, and judicially created double patenting. Early and favorable action in the case is respectfully requested. If, prior to allowance, any outstanding issues exist, Applicants' attorney would welcome the opportunity to resolve such issues via a phone interview.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 3-5, 7, 9-18 and 21.

Respectfully submitted,
Shulin Larry Zhang, et al.

By 

Laura R. Grunzinger
Attorney for Applicant(s)
Registration No. 47,616
(513) 627-1888

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Abstract

A fabric enhancement composition comprising from about 0.1% to about 30% by weight of a polymeric material comprising basic amino acids suitably modified by alkoxylation with an average of 0.1 to about 30 alkyleneoxy units.